detriment of the estate, such a directorate insulates the liability of the fiduciary. Thus promoters, although standing in a fiduciary relationship, may deal with their corporation to their own advantage if they furnish it with an independent directorate and make full disclosure of their own interests. See *Dickerman* v. *Northern Trust Co.*, 176 U. S. 181, 204; *Erlanger* v. *New Sombrero Phosphate Co.*, 3 App. Cas. 1218, 1236. But, even assuming such a directorate, a decision *contra* to the principal case would not be surprising, and would not require any "disregard of the corporate fiction."

EXTRADITION — INTERSTATE RENDITION — LIABILITY OF THE SURRENDERED PERSON TO CIVIL ACTION IN THE DEMANDING STATE. — The defendant was brought into Oregon from Utah by virtue of rendition proceedings, to be tried for a crime. While the prosecution was pending he was personally summoned to answer in a civil action brought in an Oregon state court. Upon his petition the cause was removed to the Federal court. He then moved therein to quash the service of summons. *Held*, that the motion be granted. *Bramwell* v. *Owen*, 276 Fed. 36 (9th Circ.).

A non-resident voluntarily coming into the state to defend a civil action is exempt from the service of civil process in another action. See BROWN, COURTS AND THEIR JURISDICTION, 2 ed., § 42. The rule is based on a public policy to encourage voluntary attendance upon the courts and expedite the administration of justice. Since the reasons for the rule do not exist in the case of a defendant within the jurisdiction under compulsion, exemption from civil process is generally denied him. *Netograph Mfg. Co.* v. *Scrugham*, 197 N. Y. 377, 90 N. E. 962. On the same ground the exemption is denied by the weight of authority to a defendant involuntarily present in the state by virtue of interstate rendition. *Reid* v. *Ham*, 54 Minn. 305, 56 N. W. 35; *Rutledge* v. *Krauss*, 73 N. J. L. 397, 63 Atl. 988. *Contra*, *Moletor* v. *Sinnen*, 76 Wis. 308, 44 N. W. 1099. But it is submitted that in this situation good faith on the part of the state requires the exemption. There is no objection to trying the defendant for a crime other than that for which he was surrendered; since if he returns to the surrendering state he can be again extradited. *Lascelles* v. *Georgia*, 148 U. S. 537. But the Constitution imposes an obligation on the states to surrender fugitives for the purposes of criminal jurisdiction only. See UNITED STATES CONSTITUTION, Art. IV, § 2 (2). As to granting civil jurisdiction, the surrendering state stands on the same footing as an independent sovereignty. The rule of international extradition should apply. See *In re Reinitz*, 39 Fed. 204 (2d Circ.); *Smith* v. *Corrigan*, 249 Fed. 273 (5th Circ.). Unless the surrendering state expressly confers civil jurisdiction over the fugitive upon the demanding state it is a breach of good faith for the latter to assert it. See 17 HARV. L. REV. 498.

INTERNATIONAL LAW — *DE FACTO* GOVERNMENTS — RUSSIAN SOVIET AS PARTY DEFENDANT. — The plaintiff brought an action for conversion against the Soviet Government, jurisdiction being based on an attachment of its property. The Soviet Government had not been recognized by the United States. The defendant moved to dismiss the complaint, on the ground that it had no capacity to be sued. *Held*, that the motion be denied. *Wulfsohn* v. *Russian Soviet Government*, 66 N. Y. L. J. 1711 (Sup. Ct.).

One sovereign state may sue in another state. *United States* v. *Wagner*, L. R. 2 Ch. App. 582; *Republic of Honduras* v. *Soto*, 112 N. Y. 310, 19 N. E. 845; *State of Yucatan* v. *Argumedo*, 92 Misc. 547, 157 N. Y. Supp. 219. But the capacity to be a plaintiff has been denied to an unrecognized government. *Russian Soviet Government* v. *Cibrario*, 191 N. Y. Supp. 543 (App. Div.); *Russian Soviet Government* v. *Steamers Penza and Tobolsk*, 66 N. Y. L. J. 33 (Fed. Dist. Ct., E. D. N. Y.). But see 31 YALE L. J. 534. This case holds such

a government as defendant. There is no inherent reason to refuse judicial cognizance of a *de facto* government as a legal unit. A usurping group may be dealt with as a legal entity in litigation without embarrassing the political departments of the government. Political questions will be involved, if at all, only in the determination of the powers and responsibilities of this legal unit. Where a government is recognized after an action is started, the defendant cannot assert that there was no party plaintiff at the beginning of the action. *State of Yucatan* v. *Argumedo, supra.* This indirectly assumes that there was a legal unit before recognition, the recognition merely removing political objections to the suit. Though the Soviet Government is a legal unit, the capacity to sue may be denied because of political considerations. But there should be no rule of thumb as suggested in the *Cibrario* case; rather such capacity should depend upon the political ramifications of the particular litigation. The principal case involved no political objections, which is the normal situation where the *de facto* government is the defendant. Obviously this defendant is not protected by the usual immunity of foreign states based upon comity. *Kingdom of Roumania* v. *Guaranty Trust Co.*, 250 Fed. 341 (2d Circ.).

INTERSTATE COMMERCE — CONTROL BY CONGRESS — RESPONSIBILITY FOR DISCRIMINATION UNDER § 3 OF THE INTERSTATE COMMERCE ACT. — Certain southern and midwestern carriers, with whom the plaintiffs had through routes and joint rates, allowed the privilege of creosoting-in-transit to creosoting companies on their lines. The plaintiff carriers refused to grant this privilege to the X Company, a competing creosoting company, and the only one on the plaintiffs' lines. On petition of the X Company, the Interstate Commerce Commission found that the denial of this privilege was not unjust or unreasonable under § 1 (6) but did subject the company to unjust discrimination under § 3 of the Interstate Commerce Act. (24 STAT. AT. L. 379, 380.) It ordered the plaintiffs to remove this undue discrimination. (*American Creosoting Co.* v. *Director General*, 61 I. C. C. 145.) The plaintiffs applied for a preliminary injunction to prevent the enforcement of this order. The application was denied. *Held*, that the decree be reversed. *Central R. R. of N. J.* v. *United States*, U. S. Sup. Ct., Oct. Term, 1921, No. 436.

Whether or not discrimination exists in a given case is a question of fact. *Interstate Commerce Commission* v. *Alabama Midland Ry.*, 168 U. S. 144. The findings of the Interstate Commerce Commission in this respect are conclusive, unless arbitrary. *Manufacturers Ry. Co.* v. *United States*, 246 U. S. 457. But in the principal case there is a question of law: whether the discrimination found was attributable to the plaintiffs. Such a question is decided *de novo* by the courts. *Texas & Pacific Ry.* v. *Interstate Commerce Commission*, 162 U. S. 197. It is an eminently proper construction of § 3 that it prohibits only discrimination by a carrier between shippers on its own lines, or by several carriers "if each carrier has participated in some way in that which causes the unjust discrimination." *Cf. Penn. Refining Co.* v. *Western N. Y. & Pa. R. R. Co.*, 208 U. S. 208; *Phila. & Reading Ry.* v. *United States*, 240 U. S. 334. The hardship to the X Company was caused by the distant carriers independently granting the privilege to its competitors. The advisability of such a practice may depend on local conditions. It would be unfortunate if a carrier could be compelled to grant a privilege merely because its connections do so. The X Company's only remedy is to convince the Commission that denial of the privilege is unreasonable under § 1 (6) of the Act.

INJUNCTIONS — NATURE AND SCOPE OF REMEDY — RELIEF AGAINST FRAUDULENT SUBSTITUTIONS OF THE DEFENDANT'S PRODUCT FOR THE PLAINTIFF'S. — The complainant prepared a medicine called Coco-Quinine, colored and flavored with chocolate. Its merits were explained to physicians who prescribed